

1 INSTITUTE FOR FREE SPEECH
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12 Attorneys for Plaintiff Daymon Johnson

13
14 UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF CALIFORNIA

16
17 DAYMON JOHNSON,

18
19 Plaintiff,

20 v.

21
22 STEVE WATKIN, et al.,

23
24 Defendants.

25
26 Case No. 1:23-cv-00848-CDB

27
28 DECLARATION OF ALAN GURA

29 I, Alan Gura, declare the following based on my personal knowledge:

30 1. On Thursday, June 1, 2023, I filed the original complaint and related documents in
31 this case.

32 2. On Friday, June 2, 2023, I filed a Notice of Potentially Related Case, in this case,
33 Dkt. 2, and in the potentially related case of *Garrett v. Hine*, 1:21-cv-845-ADA-CDB, Dkt. 63. The
34 lead defendant in that case is Christopher Hine, who at the time was General Counsel for the Kern
35 Community College District.

36 3. On Monday, June 5, 2023, once the court's computer assigned the permanent case
37 number, I emailed Christopher Hine, who was still listed at KCCD's website as the District's
38 General Counsel. I wrote to alert Hine of the filing of this case, request that he accept service for the

1 defendants, and meet and confer over the planned preliminary injunction motion. That email stated:

2 Dear Mr. Hine,

3 I represent Bakersfield College Prof. Daymon Johnson in a new case against various KCCD
4 officials in their official capacities.

5 I've attached copies of the various documents filed thus far for your convenience.

6 Can you please let me know if you'd be willing to accept service on behalf of the
7 Defendants?

8 I'd be happy to stipulate to extending the time to respond if you'd like.

9 Of more immediate concern than the response to the complaint, I'd like to meet and confer
10 over our planned preliminary injunction motion.

11 Please let me know if you can discuss this, or have the responsible attorney contact me.

12 Thanks,

13 Alan Gura

14 (Direct dial 202.967.0007)

15 To this email, I attached all filings in the case to date, ECF dockets 1 through 5. A true and correct
16 copy of my email to Mr. Hine is attached hereto as Exhibit 1.

17 4. I also left a voicemail message to this effect at Mr. Hine's office the same day.

18 5. The next day, June 6, 2023, at 3:24 pm Pacific Time, I received the following
19 voicemail message from a caller claiming to be Suzanne Galindo. That message stated:

20 Hello Mr. Gura. My name is Suzanne. I'm calling from the Kern Community College
21 District General Counsel's Office. I am the agent of process for the district, and I'd be happy
22 to accept service of whatever documents you have. Please send them to me along with the
23 notice of acknowledgment and receipt, and I will process accordingly. You can send them to
24 my email address, it'll be [spelled out] that's S Galindo at K C C D dot E D U. Thank you
25 very much.

26 6. KCCD's website lists Suzanne M. Galindo as Executive Assistant to the General
27 Counsel.

28 7. On hearing this, I drafted a notice of acknowledgment and receipt for Ms. Galindo's
signature. And on June 7, 2023, I emailed Ms. Galindo the following:

29 Dear Ms. Galindo,

30 Thanks for the call back.

31 Per your message, attached please find the summons and complaint, as well as other
32 documents filed thus far in the case, along with the requested Notice of Acknowledgement
33 and Receipt.

1 If you could please email back the completed Notice of Acknowledgement and Receipt, I'd
2 greatly appreciate it.
3

4 Also, as per my phone message and email, I do need to hear from counsel about meeting and
5 conferring over our preliminary injunction motion.
6

7 Thanks,
8 Alan Gura
9

10 To this email, I again attached the filings at ECF docket 1 through 5, as well as the Notice of
11 Acknowledgement and Receipt that Ms. Galindo had requested. A true and correct copy of my
12 email to Ms. Galindo, including the Notice of Acknowledgment and receipt, is attached hereto as
13 Exhibit 2.
14

15 8. As I did not hear back from Ms. Galindo, or receive the signed Notice of
16 Acknowledgment and Receipt, I left another voicemail at the Kern Community College District
17 General Counsel's Office inquiring about the matter on June 9, 2023, at 9:55 a.m. Pacific Time.
18

19 9. Later that day, I emailed Ms. Galindo again:
20

21 Dear Ms. Galindo,
22

23 Please return the completed Notice of Acknowledgement and Receipt.
24

25 If you've changed your mind about accepting service, please let me know that as well.
26

27 Thanks,
28 Alan Gura
29

30 A true and correct copy of my email to Ms. Galindo is attached hereto as Exhibit 3.
31

32 10. The KCCD defendants are aware of this litigation. On June 26, 2023, most of them
33 discussed it in executive session. *See* <https://go.boarddocs.com/ca/kccd/Board.nsf/Public> (select
34 "Meetings," select "June 26, 2023 (Mon) Board of Trustees Special Meeting," select "view the
35 agenda," scroll down to and select 7-A, "Closed Session Items," to reveal: "Conference with Legal
36 Counsel – Existing Litigation . . . Johnson v. Watkin, et al. U.S. District Court Eastern District Case
37 Number 23-CV-00848-CDB . . . " Defendants Agbalog, Corkins, Meek, Carter, Gomez-
38 Heitzeberg, Jimenez, Scrivner, and Burke attended this meeting, along with an unnamed General
39 Counsel. *Id.* (select 1-A, "Call to Order," at June 26 meeting)).
40

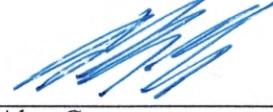
41 11. I have yet to receive the Notice of Acknowledgement and Receipt from Ms. Galindo.
42 Apart from her voicemail offering to accept service, I have never received any communication from
43

1 anyone at the KCCD General Counsel's Office or otherwise on behalf of any defendant. I will note
2 that my multiple requests to meet and confer about this case have been ignored.

3 12. In noticing the preliminary injunction motion for hearing on August 24, 2023, it was
4 my expectation that we could complete service on the defendants within 35 days of that date.

5 I declared under penalty of perjury that the foregoing is true and correct.

6 Executed on July 17, 2023.

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Alan Gura

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Exhibit A

Alan Gura

From: Alan Gura
Sent: Monday, June 5, 2023 1:44 PM
To: Christopher.hine@kccd.edu
Subject: New case -- Johnson v. Watkin, E.D. Cal. 1:23-cv-00848
Attachments: 001-0-complaint.pdf; 001-1-civil_cover_sheet.pdf; 001-2-exhibit_A.pdf; 001-3-exhibit_B.pdf; 001-4-exhibit_C.pdf; 001-5-exhibit_D.pdf; 002-notice_related_case.pdf; 004-summons.pdf; 005-0-conference_order.pdf; 005-1-consent_order.pdf; 005-2-worksheet.pdf; 005-3-consent_form.pdf; 005-4-VDRP.pdf; 003-0-phv.pdf; 003-1-cgs.pdf

Dear Mr. Hine,

I represent Bakersfield College Prof. Daymon Johnson in a new case against various KCCD officials in their official capacities. I've attached copies of the various documents filed thus far for your convenience.

Can you please let me know if you'd be willing to accept service on behalf of the Defendants? I'd be happy to stipulate to extending the time to respond if you'd like.

Of more immediate concern than the response to the complaint, I'd like to meet and confer over our planned preliminary injunction motion.

Please let me know if you can discuss this, or have the responsible attorney contact me.

Thanks,
Alan Gura
(Direct dial 202.967.0007)

Exhibit B

Alan Gura

From: Alan Gura
Sent: Wednesday, June 7, 2023 4:04 PM
To: sgalindo@kccd.edu
Subject: Service of process -- Johnson v. Watkin, E.D. Cal. No. 1:23-cv-00848-CDB
Attachments: 001-0-complaint.pdf; 001-1-civil_cover_sheet.pdf; 001-2-exhibit_A.pdf; 001-3-exhibit_B.pdf; 001-4-exhibit_C.pdf; 001-5-exhibit_D.pdf; 002-notice_related_case.pdf; 003-0-phv.pdf; 003-1-CGS.pdf; 004-summons.pdf; 005-0-conference_order.pdf; 005-1-consent_order.pdf; 005-2-worksheet.pdf; 005-3-consent_form.pdf; 005-4-VDRP.pdf; NOTICE_OF_ACKNOWLEDGMENT_AND_RECEIPT.pdf

Dear Ms. Galindo,

Thanks for the call back.

Per your message, attached please find the summons and complaint, as well as other documents filed thus far in the case, along with the requested Notice of Acknowledgement and Receipt.

If you could please email back the completed Notice of Acknowledgement and Receipt, I'd greatly appreciate it.

Also, as per my phone message and email, I do need to hear from counsel about meeting and conferring over our preliminary injunction motion.

Thanks,
Alan Gura

1 INSTITUTE FOR FREE SPEECH
2 Alan Gura, SBN 178221
3 agura@ifs.org
4 Courtney Corbello (pro hac vice pending)
5 ccorbello@ifs.org
6 1150 Connecticut Avenue, N.W., Suite 801
7 Washington, DC 20036
8 Phone: 202.967.0007
9 Fax: 202.301.3399

10 Attorneys for Plaintiff Daymon Johnson

11 UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 DAYMON JOHNSON,

14 *Plaintiff,*

15 v. Case No.: 1:23-cv-00848-CDB

16 STEVE WATKIN, et al.,

17 *Defendants.*

18 **NOTICE**

19 **TO: Steve Watkin**, in his official capacity as Interim President, Bakersfield College; **Richard**
20 **McCrow**, in his official capacity as Dean of Instruction, Bakersfield College; **Thomas Burke**, in
21 his official capacity as Chancellor, Kern Community College District; **Romeo Agbalog**, in his
22 official capacity as President, Kern Community College District Board of Trustees; **John Corkins**,
23 in his official capacity as Vice President, Kern Community College District Board of Trustees; **Kay**
24 **Meek**, in her official capacity as Clerk, Kern Community College District Board of Trustees; **Kyle**
25 **Carter**, in his official capacity as Trustee, Kern Community College District; **Christina Scrivner**,
26 in her official capacity as Trustee, Kern Community College District; **Nan Gomez-Heitzeberg**, in
27 her official capacity as Trustee, Kern Community College District; and **Yovani Jimenez**, in his
28 official capacity as Trustee, Kern Community College District

1 This summons is served pursuant to Section 415.30 of the California Code of Civil
2 Procedure. Failure to complete this form and return it to the sender within 20 days using the
3 enclosed postage prepaid return envelope may subject you (or the party on whose behalf you are
4 being served) to liability for the payment of any expenses incurred in serving a summons upon you
5 in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated
6 association (including a partnership), or other entity, this form must be signed in the name of such
7 entity by you or by a person authorized to receive service of process on behalf of such entity. In all
8 other cases, this form must be signed by you personally or by a person authorized by you to
9 acknowledge receipt of summons. Section 415.30 provides that this summons is deemed served on
10 the date of execution of an acknowledgment of receipt of summons.

ACKNOWLEDGEMENT OF RECEIPT OF SUMMONS

15 This acknowledges receipt on:

17 of a copy of the summons (Dkt. 4), the complaint with exhibits (Dkts. 1, 1-2, 1-3, 1-4, and 1-5),
18 civil cover sheet (Dkt. 1-1), notice of potentially related case (Dkt. 2), application for pro hac vice
19 and proposed order with attachment (Dkt. 3, 3-1) and order setting mandatory scheduling
20 conference with attachments (Dkt. 5, 5-1, 5-2, 5-3, 5-4) by Suzanne Galindo, agent of process for
21 Defendants, at sgalindo@kccd.edu.

23 Date: _____
24 (Date this acknowledgment is executed)

26 Signature: _____
27 (Signature of person acknowledging receipt, with title if acknowledgment is made on
behalf of another person)

Exhibit C

Alan Gura

From: Alan Gura
Sent: Friday, June 9, 2023 2:44 PM
To: 'sgalindo@kccd.edu'
Subject: RE: Service of process -- Johnson v. Watkin, E.D. Cal. No. 1:23-cv-00848-CDB

Dear Ms. Galindo,

Please return the completed Notice of Acknowledgement and Receipt.
If you've changed your mind about accepting service, please let me know that as well.

Thanks,
Alan Gura

From: Alan Gura
Sent: Wednesday, June 7, 2023 4:04 PM
To: sgalindo@kccd.edu
Subject: Service of process -- Johnson v. Watkin, E.D. Cal. No. 1:23-cv-00848-CDB

Dear Ms. Galindo,

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Alan Gura